IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WP(C).No. 39187 of 2003(M)

PETITIONER:

P.M. PONNAMMA, KARIYAMVILA PUTHEN
VEEDU, EAST KALLADA P.O.,
CHUTTUMALA, KOLLAM.

BY ADV. SRI.G.BHAGAVAT SINGH

RESPONDENTS:

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1. THE MANAGING DIRECTOR, KERALA STATE
CASHEW DEVELOPMENT CORPORATION LTD.,
(K.S.C.D.C.) KOLLAM.

2. THE MANAGER, K.S.C.D.C. FACTORY,
NO.15, EAST KALLADA, CHUTTUMALA, KOLLAM.

ADDL.R3: THE COMMISSIONER OF EMPLOYEES PROVIDENT FUND, KERALA,
OFFICE OF THE EPF COMMISSIONER, PATTOM, TRIVANDRUM-4.
(ADDL. R3 IMPLEADED AS PER ORDER IN I.A.8576/04 DT.22.7.04)

R1 BY ADV. SRI.U.K.RAMAKRISHNAN
SRI.E.K.MADHAVAN
SRI.P.V.LOHITHAKSHAN

ADDL.R3 BY SRI.N.N. SUGUNAPALAN, SC, P.F.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1-TRUE COPY OF THE ESI IDENTITY CARD ISSUED BY THE LOCAL OFFICER

EXT.P2-TRUE COPY OF THE CIRCULAR DATED 26.8.2003 ISSUED BY THE FIRST RESPONDENT.

RESPONDENTS' EXTS:

EXT.R1(A)-TRUE COPY OF THE APPLICATION IN FORM NO.10D UNDER THE EPF SCHEME SIGNED AND SUBMITTED BY THE PETITIONER TO THE EPF AUTHORITIES

EXT.R1(B)-TRUE COPY OF THE CIRCULAR DATED 24.12.99 ISSUED BY THE PERSONNEL MANAGER OF R1

EXT.R1(C)-TRUE COPY OF THE CIRCULAR DATED 7.1.2000 ISSUED BY THE FIRST RESPONDENT.

ANNEXURE A- TRUE COPY OF THE FORM 2(B) AND FORM 5/KR/1156 /693 DATED 10.5.1963.

// TRUE COPY //

P.S. TO JUDGE

T.R. Ramachandran Nair, J.

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W.P.(C).NO.39187 of 2003-M

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Dated this the 3rd day of April, 2007

JUDGMENT

The petitioner was working as Podiyeduppu Mycaud in the factory owned by the respondents. According to the petitioner, her date of birth is 3.4.1946 and in support of her claim, she has produced Ext.P1 E.S.I. Card. The dispute arose when Ext.R1(a) was forwarded by the employer to the Provident Fund Commission, wherein the year of birth was shown as 1943. The petitioner had put in her signature also in Ext.R1(a).

2. The petitioner approached this court to quash Ext.P2 and for a direction to the respondents to permit her to continue in srvice till she attains the age of 60 years. This court as per an interim order dated 18.12.2003, restrained the respondents from terminating the service of the petitioner on the ground of superannuation, for a period of three months from 1.1.1004. It was also made clear that during that period the petitioner shall not be eligible for pension and this interim order was continuing throughout. The petitioner continued in service upto 31.12.2006. Now what remains is only her claim for continued payment of pension.

Admittedly the petitioner has worked upto 31.12.2006. The third

respondent will have to recalculate the pension and other benefits which the petitioner is entitled to and take appropriate action for disbursement of the same. For the purpose of calculating the pension and payment of other benefits, at this stage it is not necessary to go into the controversy whether her year of birth is 1943 or 1946 and that question is left open. It is a disputed question of fact which cannot be resolved in a writ petition also. The third respondent is directed to recalculate the pension payable to the petitioner and take action to disburse the same within a period of three months from the date of receipt of a copy of this judgment.

The writ petition is disposed of in the above terms. No costs.

(T.R. Ramachandran Nair, Judge.)

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